

REMARKS

Applicant and its counsel hereby thank the Examiner for taking the time to meet with them in person on August 20, 2002. In furtherance of the matters discussed at that Interview, to more clearly describe the invention, Claims 1, 13, 19, 26 and 27 have been amended. Applicant has addressed every ground for rejection in the Office Action dated July 12, 2002 and, in view of the Examiner's comments from the Interview of August 20, 2002, and the Advisory Action dated September 24, 2002, believes that the Application is now in condition for allowance.

Claims 1-12 and 26-27 stand rejected under 35 USC Section 112, second paragraph, as being indefinite. Applicant has amended Claims 1, 26 and 27 to clarify these claims. Specifically, Claim 1 has been amended to remove any mention of "means associated with at least one computer for inputting" and instead refers to "input means." Claims 2-12, depend from Claim 1 and accordingly incorporate by reference, the amendment to Claim 1. Claim 26 now deletes any mention of the phrase "said step of providing access to participant data includes providing access to participant data." Claim 27 deletes any mention of the phrase "said participant data includes data regarding said participants." Applicant believes that the Claims, as amended, are definite and respectfully requests that the rejection under 35 USC Section 112 be withdrawn.

In the Office Action of July 12, 2002 the Examiner rejected Claims 1-3, 5, 7-9, 12, 13, 16, 19, 21, 24-27 under 35 USC Section 102(a) as being anticipated by Spurgeon US Patent No. 5,890,129 ("Spurgeon '129"). Furthermore, Claims 10, 11, 14, 15, 20, 22 and 23 were rejected under 35 USC Section 103(a) as being unpatentable over Spurgeon '129. Likewise, Claims 4, 6 and 17-18 were rejected under 35 USC Section 103(a) as

unpatentable over Spurgeon '129 in view of Moore et al. US Patent No. 5,930,759 ("Moore et al. '759"). Applicant respectfully traverses the Examiner's rejections.

Previously, the following definition of the phrase "real time" was added to the specification, "Real time, as used herein, refers to the ability of the system to respond to input immediately." As discussed at the Interview of August 20, 2002, neither Spurgeon '129 nor Moore '759, either alone or in combination, teach or suggest at least the following features of Applicant's invention in the context of a dental benefits eligibility determination system:

- Providing the capability to query and receive a response from a remote database in real time by a client contacting the intermediary and accessing plural databases in real time [*See, Application at p.8, ll. 17- p.9, ll. 23; p.11 ll. 21-23; p.12, ll. 6-9*];
- Avoiding the need to "push" the participant data down to the provider in advance of an eligibility inquiry or to have such data stored on the provider's computer system as in Spurgeon '129, which involves the client only accessing locally stored data [*Fig. 2; Application at p.8, ll. 17- p.9, ll. 23; p.11 ll. 21-23; p.12, ll. 6-9*];
- Providing the ability to access the participant data of multiple insurance carriers [*Application p. 11 at ll.8-23*];
- Providing simultaneous access to participant data by multiple providers without the need to have the participant pre-register or be assigned to that provider [*See, Application at p. 8, ll. 3-11*]; and,

- Providing customized or tailored data about the participant to the provider depending upon the provider's particular needs and allowing the provider to query further in real time as needed. [*See, Application at p. 9 ll. 3-9*].

Contrary to the teaching in the claimed invention, a subscriber in Spurgeon is accessing the information "pushed" down to it and locally stored on the subscriber's system. This "push technology" architecture of Spurgeon simply cannot provide the above-mentioned claimed features, among others. For a provider to access participant data in the Spurgeon system, it must repeatedly update its information and "push" such information to an interface with its subscribers. Accordingly, while Spurgeon may *update* its information, it does not allow a subscriber to receive or access such information *at the immediate computer access of the operator*. Hence, as defined in the Application, Spurgeon does not access data stored remotely from the provider in "real time". Moore likewise fails to teach or suggest these claimed features.

The Claims as amended further emphasize the differences of Applicant's invention over the prior art. For example, Claim 1 of the present invention, as amended, claims a system for determining eligibility of a participant in an insurance plan with respect to particular dental procedures performable by a dental care provider comprising: at least one computer having at least one data storage means, at least one input means and at least one output means; data pertaining to at least one participant stored in at least one database on the data storage means of a first of said at least one computer wherein at least a portion of said data is not locally stored on the first computer; means associated with the at least one computer for determining eligibility of the participant in real time; said input means being associated with at least said first computer for inputting an inquiry

requesting information pertaining to a particular procedure in order to access said participant data in real time and determine eligibility for said procedure in real time prior to providing said procedure without the need to send participant's data to said first computer from said data storage means in advance of said determination; and means associated with the at least one computer for recording utilization of benefits by the dental provider in real time.

Claim 13, for example, as amended, includes a method of providing information to dental care providers regarding a participant of an insurance plan of at least one carrier comprising the steps of: determining eligibility of the participant comprising the steps of: inputting identifier data pertaining to the participant on a first computer in the form of an inquiry in real time to at least one database containing participant data regarding a plurality of insurance carriers, wherein at least a portion of said participant data is stored remotely from the first computer; searching for the identifier data in the participant data of the at least one database; providing output in the form of participant data provided as a response to the inquiry in real time pertaining to the eligibility of the participant without the need to send the participant's data from said database in advance of the determination; inputting a procedure code in real time to determine whether the procedure is covered by the participant's plan prior to performing the procedure; and recording the utilization of benefits and claims in real time by way of a procedure by the dental care provider comprising the steps of: inputting an identifier data pertaining to the participant; and, inputting a performed procedure data.

Likewise, multiple dental carriers and others who require the utilization records can likewise log in to the system and simultaneously obtain utilization records pertaining

to the subscribers or participants. [See Application at page 11 ll. 5-7]. Access can be restricted to only subscribers or tailored to meet the differing needs of members of the system. [See Application at page 8, l. 7; page 9 ll. 3-8]. Spurgeon '129 does not provide for *multiple* dental care providers to automatically and at the same time access the participant data for a particular participant. As stated in Spurgeon '129:

For instance, an existing subscriber may choose to change primary care providers in which case a deactivation message is broadcast to the old provider and subscriber insurance data is broadcast to the new provider. Also, when an insurer credentials new providers, the new provider is typically assigned a batch of previously unassigned subscribers. The subscriber insurance data for all of the subscribers is broadcast out to the newly-credentialed provider.

[See Spurgeon '129 at Col. 8 ll. 44-57].

Accordingly, if a subscriber is not *assigned* to a provider in the Spurgeon '129 system, the subscriber insurance data must be “pushed” or broadcast to that provider *before* it can be accessed by the new provider -- despite the fact that the subscriber is a member of the plan. In Applicant’s claimed system, *multiple* providers can access the participant data of a particular participant *simultaneously*, without the need to *assign* the participant to a provider or to *broadcast* that information to the assigned provider. Hence, Spurgeon '129 fails to teach or suggest, among other things, the capability of Applicant’s claimed system to provide participant data regarding participants that are not assigned to the dental care provider by the plan, so as to enable *multiple* dental care providers to directly access participant data for a participant *without the need to send*

such participant data to the provider in advance – as claimed in amended Claims 26 and 27. As a result, those claims should be deemed allowable as well.

The system of Applicant's invention provides for inputting a particular procedure in order to determine eligibility for said procedure *prior to providing the procedure*. [Application at p. 9 ll. 10-11; ll. 20-21]. Spurgeon '129 and Moore '759 do not teach or suggest that capability. [Moore '759, Col. 5 ll. 14-19]. As the prior Examiner has previously acknowledged, Spurgeon, US Patent No. 5,890,129 further "does not teach that the eligibility determining means comprises means for inputting a particular procedure necessitated by a participant." [See Office Action, Paper No. 3 at page 9].

As further evidence of the non-obviousness of the claimed subject matter of the claimed invention, including the non-obviousness of the client-server network architecture claimed by Applicant, Applicant has herewith submitted the Supplemental Declaration of Fred L. Horowitz ("Horowitz") and the Declaration of Danny L. Bentley ("Bentley") under 37 CFR 1.132. Based on their familiarity for many years with the healthcare benefits service and technology industry and Applicant's system, which is the subject of this application, both Horowitz and Bentley declared that Applicant was a "pioneer" in the dental care insurance industry with respect to the subject matter of the claimed invention. Specifically, as of 1999, no competitor, to their knowledge, could provide such eligibility verification and claim submission information in real time and none were using the architecture of the present invention. [Horowitz Supp.Dec. at Par. 11; Bentley Dec. at Par. 3-4]. Because of the innovative and novel features of the claimed invention embodied in Applicant's ANSLink system, Applicant has achieved commercial success. [Horowitz Supp.Dec. at Par. 8-10; Bentley Dec. at Par. 3].

Accordingly, both the Horowitz and Bentley Declarations support the non-obviousness of Applicant's system design within its industry. Specifically, both Horowitz and Bentley believe that the commercial success of Applicant has been due to the following features of the invention:

- Providing a real-time, two-way on demand request for the current status of a member or subscriber ("Patient" or "Participant") in such a way that the information request is sent and an immediate timely response is displayed providing:
 - Patient Eligibility regardless of whether: that Patient is assigned to that provider; the provider is a primary care provider or specialist; or the provider is inside or outside of the provider network;
 - Patients can then "drop in" on new providers and still have Eligibility Information accessed in Real Time;
 - Provider receives only the information it requested and needs about the Patients;
 - Access is provided to the eligibility information of multiple carriers; and,
 - Real Time eligibility requests and responses are provided *prior* to performing a procedure.
- Access from any location;
- Data that is accurate as of the time that the request is made; and,
- Ability to file a claim electronically in Real Time.
- Providing such member and benefit verification and claim submission information in Real Time by using an architecture wherein a live query to the ANS system by the

Provider is responded to in Real Time by accessing the remote databases of multiple carriers and providing the requested information regarding the Patient. [Horowitz Supp. Dec. at Par. 7; Bentley Dec. at Par. 3].

Moreover, because of the features of the Applicant's invention, the system has generated great interest and favorable recognition for Applicant. [Bentley Dec. at Par. 6; Horowitz Supp. Dec at Par. 12].


Hence, in light of these and other differences, Spurgeon '129 and Moore, et al. '759, either alone or together, if such combination were possible, fail to teach or suggest, among other things: an architecture wherein at least a portion of the patient data accessed is not locally stored; determining the eligibility in real time without the need to send participant data to the provider in advance of the determination; and/or the capability of Applicant's claimed system to input a particular procedure in order to determine eligibility *in real time* for said procedure *prior* to providing the procedure, as claimed in amended Claims 1, 13 and 19. Inasmuch as: Claims 2-12 and 27 depend from Claim 1; Claims 15-18 depend from Claim 13; and, Claims 21-26 depend from Claim 19, and serve to further limit same, they should likewise be deemed allowable.

Applicant submits that in view of the above-identified amendments and supporting remarks and the Declarations of Horowitz and Bentley under 37 CFR 1.132, the claims in their present amended form are patentably distinct over the cited prior art. Accordingly, allowance of the claims, as amended, is respectfully requested.

Should anything further be required, the Examining Attorney is respectfully
requested to telephone the undersigned at (312) 551-8300.

October 18, 2002
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VERSION WITH MARKINGS TO SHOW CHANGES MADE

1. (Twice Amended) A system for determining eligibility of a participant in an insurance plan with respect to particular dental procedures [necessitated by a participant] performable by a dental care provider [for determining plan design] comprising:

- at least one computer[, each such at least one computer] having at least one data storage means, at least one input means, and at least one output means; [the at least one computer having participant data stored on the data storage means pertaining to a participant];
- data pertaining to at least one participant stored in at least one database on the data storage means of a first of said at least one computer wherein at least a portion of said data is not locally stored on said first computer;
- means associated with the at least one computer for determining eligibility of the participant in real time;
- said input means being associated with at least said first computer for inputting an inquiry requesting information pertaining to said particular dental procedure in order to access said participant data in real time and determine eligibility for said procedure in real time prior to providing said procedure without the need to send participant's data to said first computer from said data storage means in advance of said determination; and

[- means associated with the at least one computer for inputting a particular procedure necessitated by a participant in order to determine eligibility for said procedure prior to providing said procedure; and]

- means associated with the at least one computer for recording utilization of benefits by the dental provider in real time.

13. (Twice Amended) A method of providing information to dental care providers regarding a participant of an insurance plan of at least one carrier comprising the steps of:

- determining eligibility of the participant comprising the steps of :
- inputting [an] identifier data pertaining to the [at least one] participant [as input] on a first computer in the form of an inquiry in real time to at least one database containing participant data regarding a plurality of insurance carriers, wherein at least a portion of said participant data is stored remotely from said first computer;
- searching for the identifier data in said participant data of said at least one database [a storage means];
- providing output in the form of participant data provided as a response to said inquiry in real time pertaining to the eligibility of the [at least one] participant without the need to send the participant's data from the database in advance of said determination;
- inputting a procedure code in real time to determine whether the procedure [code] is covered by the participant's plan prior to performing the procedure;
and
- recording the utilization of benefits and claims in real time by way of a procedure by the dental care provider comprising the steps of:

- inputting an identifier data pertaining to the [at least one] participant [as input]; and,
- inputting a performed procedure data.

19. (Twice Amended) A method for establishing a network for the administration of coverage to a dental care provider comprising the steps of:

- providing a plurality of computers;
- linking the computers to form a network;
- storing data pertaining to a participant and to a coverage plan pertaining to the

participant on data storage means; and

- providing access to the data of the participant from at least one of the plurality of computers, to in turn, facilitate at least one of:
- determining in real time the eligibility of the participant for a particular procedure prior to performing the procedure by both sending an inquiry for data of said participant and receiving a response to said inquiry in real time, at least a portion of which data is stored remotely from said computer, without the need to send said participant's data to said provider in advance of said determination; and
- recording the utilization of participant benefits by the dental care provider in real time to form utilization records.

26. (Amended) The method of claim 19 wherein said [step of providing access to] participant data [includes providing access to participant data, so as to enable said

participant data for a particular participant to] may be directly accessed by multiple dental care providers simultaneously, without the need to send such participant data to said multiple providers in advance.

27. (Amended) The system of Claim 1 wherein said eligibility determining means is capable of [participant data includes data regarding participants so as to] enabling[e] multiple dental care providers to directly and simultaneously access participant data for said [a] participant without the need to send such patient data to said multiple providers in advance.